

AMENDMENT UNDER 37 CFR § 1.116
Serial No. 09/725,921

REMARKS

A total of 70 claims remain in the present application. The foregoing amendments are presented in response to the Office Action mailed May 27, 2005, wherefore reconsideration of this application is requested.

By way of the above-noted amendments, Claim 1 has been amended to clarify that the step of "invoking the functionality using the encapsulated transaction message functional content" is performed at the second network node, which is consistent with the corresponding system claim 25.

In preparing the above-noted amendments, careful attention was paid to ensure that no new subject matter has been introduced.

Referring now to the text of the Office Action:

- Claims 5-7, 25, 29-31 and 49 stand objected to;
- claims 1-4 and 25-28 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over the teaching of United States Patent No. 6,574,201 (Kreppel) in view of United States Patent No. 6,608,832 (Forslow);
- claims 10-11, 14, 20, 34 - 35 and 38 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over the teaching of United States Patent No. 6,574,201 (Kreppel) in view of United States Patent No. 6,608,832 (Forslow), and further in view of United States Patent No. 6,363,424 (Douglas et al);
- claims 5-9, 12-13, 15-19, 21-24, 29-33, 36-37 and 39-48 are objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims; and
- claims 49-52 and 54 -71 are allowed.

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As an initial matter, Applicant appreciates the Examiner's allowance of claims 49-52 and 54-71 and indication of allowable subject matter in claims 5-9, 12-13, 15-19, 21-24, 29-33, 36-37 and 39-48. The Examiner's objections to claims 5-7, 25, 29-31 and 49, and rejection of claims 1-4, 10-11, 14, 20, 25-28, 34-35 and 38 under 35 U.S.C. §103(a) are believed to be traversed by the above-noted claim amendments, and further in view of the following discussion.

Claim Objections

The Examiner has repeated his objection to claims 5-7, 25, 29-31 and 49 on the ground that these claims contain the phrase "adapted to".

As argued in some detail in Applicant's previous response dated December 23, 2004, *In re Hutchison*, 69 USPQ 138 does not provide any *per se* rule prohibiting the term "adapted to" in the claims. Applicant's use of this term in claims 5-7, 25, 29-31, 49 and 54 is believed to be proper, and is entirely permissible in view of *In re Hutchison*, 69 USPQ 138. Accordingly, Applicant has respectfully retained the term "adapted to" in the claims.

Claim Rejections Under 35 U.S.C. §103(a)

At paragraph 3 of the Detailed Action, the Examiner asserts that "Applicant's argument with respect to the rejected claims 1 and 25 ... that the cited reference 'do not teach the encapsulates functional content of a transaction message within a PDU of GPRS network' The Examiner then refers to Forslow to find encapsulation of PDUs (of various protocols) and tunnelling through the GPRS network, and on this basis maintains his previous claim rejections. These are then repeated in paragraph 7 of the Detailed Action.

With respect, Applicant believes that the Examiner's dismissal of Applicant's previous arguments is based on a miss-reading thereof. In particular, claim 1 defines a three-step process comprising the steps of:

- at a first network element, encapsulating a functional content of a transaction message in a Protocol Data Unit (PDU) of the broadband packet network;

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- forwarding the PDU through the broadband packet network to a second network element; and
- at the second network element, invoking the functionality using the encapsulated transaction message functional content.

Claim 25 is the system equivalent of claim 1, and requires:

- a first network element capable to encapsulate a functional content of a transaction message in a Protocol Data Unit (PDU) of the broadband packet network; and
- a second network element capable to invoke the functionality using the encapsulated transaction message functional content.

At page 14, paragraph 4 of Applicant's response filed December 23, 2004, Applicant points out that neither Kreppel nor Forslow teach or suggest the whole combination of elements defined in these claims. The Applicant has not focussed on any one element as defining over the prior art, as suggested by the Examiner. Rather, it is the combination of elements, taken together, which is neither taught nor fairly suggested by the cited references.

More particularly, Kreppel teaches a mobile radio telephone network for handling a packet data service, in which an interface Gnew is provided between an SGSN and a service control function SCF. This arrangement enables the SCF to interact with the Service Switch Function SSF (which is integrated within the SGSN) to deliver IN functionality to subscribers of the GPRS network. However, this IN functionality is delivered by interaction between the SGSN and the SCF.

Forslow implements Intelligent network functionality in a GSM wireless network, by providing an SGSN 50 (FIG. 2) of the GSM GPRS network 51 which interfaces between a base station controller 34 and the SS7 network 40. This arrangement enables the SGSN 50 to interact with the SS7 network 40 and thereby provide services of the digital network 51, IP data network 56 and ISP 58 to the mobile station 12. However, as with Kreppel, this functionality is delivered by interaction between the SGSN 50 the BSC 34 and SS7 network 40.

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The Examiner is correct in pointing out that Forslow teaches that tunnelling is used to transport various protocols through the GPRS network 51 (FIG. 2). The Examiner extrapolates from this to argue that tunnelling could be used to transport IN transaction messages through a packet-switched network. However, neither Kreppel nor Forslow provide any such teaching, nor do they provide any motivation for doing so. Furthermore, neither Kreppel nor Forslow teach or suggest invoking transaction oriented telephony functionality based on transaction message functional content encapsulated with a PDU. In that respect, Kreppel does not teach or suggest tunnelling or encapsulation at all, so the question of how the system of Kreppel might handle tunnelled/encapsulated content is moot. Forslow does teach tunnelling through a packet-switched network, but this is used only for traffic forwarding. Forslow does not teach or suggest doing anything other than forwarding of tunnelled content received through the packet-switched network, and does not even consider extracting and using such tunnelled/encapsulated content to invoke functionality of another network, as in the present invention.

As such, neither Kreppel nor Forslow, taken alone or in combination, teach or suggest the combination of elements defined in claims 1 and 25.

Accordingly, it is believed that independent claims 1 and 25 patentably define over the teachings of the cited references. The dependent claims are believed to define further patentable features of the invention, and thus, provide further grounds for patentability.

In light of the foregoing, it is respectfully submitted that the presently claimed invention is clearly distinguishable over the teaching of the cited references, taken alone or in any combination. Thus, it is believed that the present application is in condition for allowance, and early action in that respect is courteously solicited.

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If any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this response, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 19-5113.

Respectfully submitted,



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